

Deficiency Progress Report – Update 3

Report Submitted: August 2, 2010

CUPA: Oakland City Fire Department

Evaluation Date: December 9 and 10, 2008

Evaluation Follow-up Team:

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Corrected Deficiencies: [2](#), [4](#), [7](#), [12](#), [13](#), [18](#)

Next Progress Report (Update 4) Due: [November 2, 2010](#)

[Please update the deficiencies below that remain outstanding.](#)

- 1. Deficiency:** The CUPA did not submit the state surcharge collected for fiscal years (FYs) 2005/2006 and 2007/2008 to the Secretary. In the CUPA's Annual Single Fee Summary Reports (Report 2s), the CUPA reported that it submitted \$24,816 in 2005/2006 and \$24,474 in FY 2007/2008, but neither amounts were received by the Secretary. A FY 2007/2008 surcharge transmittal reviewed did not contain a check number or a copy of the check submitted.

The CUPA should be transmitting all collected state surcharge revenues to the Secretary quarterly, within 30 days of the end of each state fiscal quarter.

Preliminary Corrective Actions: By February 10, 2009, the CUPA will meet and confer with the City fiscal staff to develop a process to ensure the surcharge amounts collected in each fiscal quarter are remitted to the Secretary within 30 days of the end of each fiscal quarter. Also, the CUPA will remit the FY 2005/2006 and 2007/2008 surcharge checks and completed surcharge transmittals to the Secretary.

Along with the 1st progress report, the CUPA will submit to Cal/EPA a copy of the remitted FY 2005/2006 and 2007/2008 surcharge checks and surcharge transmittals.

CUPA's 1st Update (4-13-09): Staff has provided an electronic copy of the invoice showing check submitted by the City of Oakland for the 2005/2006 CUPA surcharge. Attached is a copy of the request and Report 1 for the 2007/2008. Upon receipt the check transmittal, staff will forward copy to CalEPA. Staff responsible for CUPA invoicing has been directed to create an electronic notification system that will instruct them to submit request for the quarterly surcharge submittal.

Cal/EPA's 1st Response: After reviewing the state records of the CUPA's surcharge remittals, Cal/EPA found that the CUPA remitted the FY 2007/2008 surcharge to the state as requested during the 2008 evaluation; however, the state has not received the CUPA's reported FY 2005/2006 surcharge remittal of \$24,816 to date. The screenshot that was attached with this progress report did not display the FY 2005/2006 surcharge remitted. It actually displayed the FY 2003/2004 surcharge remitted.

The state accounting department has requested that the CUPA remit the FY 2005/2006 state surcharge collected along with the surcharge transmittal immediately. In addition, please email to Cal/EPA a copy of the remitted FY 2005/2006 surcharge check and transmittal within 15 days of remittance.

CUPA's 2nd Update (11-9-09): Request for remittance has been submitted, delay is due to the settlement of the City of Oakland budget. Expect check to issued by September 15, 2009.

Cal/EPA's 2nd Response: ARB accounting has not received the CUPA's FY 2005/2006 state surcharge or transmittal form. Please make arrangements with the City of Oakland budget department to remit \$24,816 to ARB accounting immediately.

CUPA's 3rd Update (8-2-10): The City of Oakland has conducted a thorough review of the state surcharges collected on behalf of the State of California for the 2005 /2006 fiscal year. Due to the current fiscal situation and because of the timeframe in question staff was directed to conduct a financial audit to determine the exact amount owed to the State based upon billed and collected monies. The result of the audit has determined that the amount owed to the State of California is \$25,756.00. This amount will be sent to the ARB within 10 business days.

Cal/EPA's 3rd Response: Cal/EPA has not received the documentation necessary to make a determination about this deficiency. By September 24, 2010, please submit to Cal/EPA copies of the surcharge transmittal and check for the \$25,756.

CUPA's 4th Update: Enter Update Here

2. Deficiency: The CUPA's FY 2007/2008 Annual Summary Reports contained some incorrect information.

- Report 2 shows that the CUPA's total regulated businesses are 1503. Upon discussion with the CUPA manager, it was discovered that the CUPA's total regulated businesses is approximately 1400.
- The Annual Inspection Summary Report (Report 3) does not contain the percent of routine inspections with Class 1 or Class 2 violations that returned to compliance (RTC) within 90 days. Instead, it contains the number of routine inspections that RTC (the CUPA entered information that was required in the old Report 3 format).

- The Annual Enforcement Summary Report (Report 4) does not contain the correct violation classification information for the business plan, underground storage tank, and CalARP program elements.

Preliminary Corrective Actions: By February 10, 2009, the CUPA will submit its revised FY 2007/2008 Annual Summary Reports to Cal/EPA that contains the correct information.

CUPA's 1st Update (4-13-09): Attached are the corrected Inspection Summary Report 3 and Enforcement Summary report 4. The Oakland CUPA Data Management System is currently being upgraded to provide the inspection and enforcement data in the format requested by Cal-EPA. Conversion to new data system is expected to be completed by July 2009. The system upgrade will allow for accurate reporting. (Data Management Upgrade Progress On-going Completion 07/15/09)

Cal/EPA's 1st Response: The CUPA's revised FY 2007/2008 Report 3 and 4 are corrected; however, a revised Report 2 containing the correct number of regulated businesses was not attached. Immediately, please submit to Cal/EPA the CUPA's revised Report 2.

CUPA's 2nd Update (11-9-09): Revised Report 2 attached with correct CUPA facility count.

Cal/EPA's 2nd Response: The revised FY 2007/2008 Report 2 was received by Cal/EPA. Cal/EPA considers this deficiency corrected. It appears that because of the size and number of attachments sent with the 2nd progress report, the original submission was not received by Cal/EPA on the specified due date.

- 3. Deficiency:** In some cases, the CUPA is not following-up and/or documenting RTC for businesses cited for violations in Notices to comply and inspection reports/Notices of Violation. Out of 10 files reviewed by Cal/EPA and 20 files reviewed by DTSC, 7 files did not contain evidence of RTC or CUPA follow-up documentation. Below are some businesses that were cited for violations, but documentation of RTC or CUPA follow-up was not found:

- Frank's Auto Work – inspected 8-23-07
- Hund Welding and Machining – inspected 3-9-02
- CA Waste Solutions – inspected 7-26-08
- Pacific Galvanizing - inspected 7-18-06
- BART - inspected 6-25-07

Documenting facility RTC and CUPA follow-up actions is required as part of the CUPA's implementation of its Inspection and Enforcement (I and E) plan. In addition, this information is required for the CUPA's Annual Summary Reports.

Preliminary Corrective Actions: By April 10, 2009, the CUPA will follow-up with businesses cited for violations and document RTC actions. In the absence of RTC documentation from businesses, the CUPA will document follow-up actions like re-inspections, enforcement letters, etc.

On the 1st progress report, the CUPA will submit to Cal/EPA an action plan as to how it will follow-up with businesses with violations on a more consistent basis.

CUPA's 1st Update (4-13-09): The CUPA has reviewed the files that were reviewed as part of the 2008 Program audit. During the 2007 / 2008 reporting period 62 Return to Compliance notices were issued by staff. 23 were returned and 39 were found outstanding. Attached are copies of the reports and RTC notices. Oakland CUPA inspectors issue Return to Compliance (RTC) at the conclusion of each inspection, it is the responsibility of the inspector to ensure that the facility completes and returns the RTC. Currently the CUPA DMS does not provide a notification to the inspector of outstanding RTC. To address this issue, the updated CUPA DMS will generate a report listing outstanding RTC's for the Program Manager to conduct follow-up with staff to ensure that corrective actions are completed within the time frames required in regulations. The outstanding RTC will assigned to the issuing inspector for follow-up (Progress On-going - Inspections completed 5/30/09 Database implementation 07/15/09)

Cal/EPA's 1st Response: Please refer to DTSC's comments.

- **DTSC's Response:** Cal/EPA and DTSC appreciate the CUPA's efforts in trying to correct this deficiency. The CUPA submitted the following RTC with this update:
 - Frank's Auto Work – RTC document dated 12-23-08 with 8-23-07 as the initial date of inspection
 - CA Waste Solutions – The CUPA did not include RTC documentation for the inspection conducted on 7-26-08. However, it must be noted that the two submitted inspection reports of 6-26-08 and 3-13-07 contradict each other. One inspection report dated 6-26-08 states that "No Hazardous Waste" is generated onsite, and the other report dated 3-13-07 states that "All Hazardous waste oil was properly contained and the contents were identified. Waste Oil is picked up monthly by Evergreen Environmental. All manifests are current." Please explain if the no generation of hazardous waste is permanent or if it only applied to the 6-26-08 inspection.
 - Pacific Galvanizing - RTC documentation was not included with the response. The CUPA included a Notice of Violation dated 8-1-06 for the inspection conducted on 7-18-06. Another inspection report dated 6-5-08 is not legible.

CUPA's 2nd Update (11-9-09): none

Cal/EPA's 2nd Response: Along with the next progress report, please submit to Cal/EPA copies of recent (within 6 months) inspection reports and RTC documentation from 3 facilities cited for violations.

CUPA's 3rd Update (8-2-10): Inspection reports for the following facilities have been submitted for review by the CalEPA evaluation staff:

- V_ Tech Auto
- Hi-Tec Cleaners
- G&M motor Sports

Cal/EPA's 3rd Response: Cal/EPA has not received the documentation necessary to make a determination about this deficiency. By September 24, 2010, please submit to Cal/EPA copies of inspection reports and RTC documentation from the 3 facilities listed above.

- **DTSC's Response:** DTSC did not receive copies of the inspection reports for the following listed above: V_ Tech Auto, Hi-Tec Cleaners, and G&M motor Sports.

CUPA's 4th Update: Enter Update Here

4. **Deficiency:** The CUPA's I and E plan does not contain its schedule of inspection frequency for the Hazardous Waste Generator program element.

Preliminary Corrective Actions: By March 10, 2009, the CUPA will submit to Cal/EPA the portion of its I and E plan that contains the CUPA's scheduled inspection frequencies for all program elements.

CUPA's 1st Update (4-13-09): The Oakland CUPA has revised the Inspection and Enforcement Plan to establish inspection frequency (see attached). LQG and TP facilities will be inspected annually. SQG will be inspected tri-annually. (Progress – Completed)

Cal/EPA's 1st Response: The I and E schedule of inspection frequencies was not a part of the attachments emailed with this progress report. Immediately, please email the frequency schedule to Cal/EPA.

CUPA's 2nd Update (11-9-09): Corrected I and E plan attached

Cal/EPA's 2nd Response: Based on a review of the revised I and E Plan, Cal/EPA and DTSC consider this deficiency corrected.

5. **Deficiency:** The CUPA is not requiring businesses, subject to the hazardous materials reporting requirements to annually submit their hazardous materials inventory or certification statement.

Out of the 9 files reviewed only 1 had its annual inventories up-to-date with either certifications or updated inventory forms.

Preliminary Corrective Actions: By March 10, 2009, the CUPA will submit an action plan outlining how CUPA will ensure that each business annually submits either the inventory certification or the inventory itself.

CUPA's 1st Update (4-13-09): It is policy to send the request for annual hazardous materials inventory certification in January of each year. At the time of the audit the Oakland CUPA was without a Data Entry Staff to conduct data management activities for approximately 9 months. The job task for sending and filing of certifications was assigned to this position. This position has been filled and staff is updating the main file area. Filing of the certification and inventory forms has resume with the hiring of a Data Entry Staff person. Information is stored both electronically and hard copy. The Oakland CUPA program files are located in two distinct buildings. Active information is sent to the program offices to be entered into the CUPA DMS system prior to being sent to the main data file room. (Progress – On-going Completion 9/15/009)

Cal/EPA's 1st Response: Please refer to CalEMA's response.

- **CalEMA's Response:** Please report your progress with the next quarterly report.

CUPA's 2nd Update (11-9-09): The Oakland CUPA has filled all of the staff positions authorized in its CUPA application. Staff assigned to perform data entry has completed as assessment of the CUPA data and as identified all active and inactive sites within the CUPA's jurisdiction and this information has been entered into the electronic data base. Currently the database is being modified to meet the CERS requirements. One of the modifications to the system is the addition of an auto-generation of the inventory certification form to mail out annually. The file room co-location project is on hold due to budget short issues. (Progress – Data Assessment Complete , File room relocation on-going)

Cal/EPA's 2nd Response: On the next progress report, please report the total number of current inventory or inventory certifications the CUPA has received. Also report the total number of HMBP facilities regulated by the CUPA.

CUPA's 3rd Update (8-2-10): The current inventory of HMBP facilities in the Oakland CUPA database is 1494. The current database used by the CUPA is able to record the date the HMBP is received, however it does not process the capability to produce and overall report for all facilities. To address this issue the CUPA is working with CalEPA on a redesigned CUPA data management system to provide a more comprehensive reporting system to replace the CUPA DMS reporting system.

Cal/EPA's 3rd Response: Can the CUPA disseminate the facilities that have not submitted a current inventory or certification statement? If so, please submit that information along with the next progress

report. Along with the next progress report, please state when the CUPA's new data management system will be ready to query facility inventory data (specifically inventory receipt date, past due facilities, pending review, etc.)?

CUPA's 4th Update: [Enter Update Here](#)

6. **Deficiency:** The CUPA is not requiring businesses, subject to the hazardous materials reporting requirements, to certify that they have reviewed and if necessary updated the entire business plan every three years. In 7 out of the 9 files, no certification for 3 year review was found.

Preliminary Corrective Actions: By March 10, 2009, the CUPA will develop a mechanism to ensure that each business reviews their business plan every three years and make necessary changes if required.

CUPA's 1st Update (4-13-09): It is policy to send the request for annual hazardous materials inventory certification in January of each year. At the time of the audit the Oakland CUPA was without a Data Entry Staff to conduct data management activities for approximately 9 months. The job task for sending and filing of certifications was assigned to this position. This position has been filled and staff is updating the main file area. Filing of the certification and inventory forms has resume with the hiring of a Data Entry Staff person. Information is stored both electronically and hard copy. The Oakland CUPA program files are located in two distinct buildings. Active information is sent to the program offices to be entered into the CUPA DMS system prior to being sent to the main data file room. (Progress – On-going Completion 9/15/09)

Cal/EPA's 1st Response: Please refer to CalEMA's response.

- **CalEMA's Response:** Please report your progress with the next quarterly report.

CUPA's 2nd Update (11-9-09): Currently the CUPA DMS database is being modified to meet the CERS requirements. One of the modifications to the system is the addition of an auto-generation of the inventory certification form to mail out annually. Attached is a copy of the scope of work for the project. Expected project completion 10/20/2009

Cal/EPA's 2nd Response: This deficiency relates to the business plan review requirement in chapter 6.95, not the annual inventory submission requirement. Please refer to CalEMA's response.

- **CalEMA's 2nd Response:** The CUPA's 2nd update response is incorrectly answered. The CUPA needs to ensure that each handler review and update their business plans every 3 years and/or certify that the review has taken place. On the next progress report, please report the total number of current business plan certifications and or updates the CUPA has received. Also report the total number of HMBP facilities regulated by the CUPA.

CUPA's 3rd Update: The current inventory of HMBP facilities in the Oakland CUPA database is 1494. The current database used by the CUPA is able to record the date the HMBP is received, however it does not process the capability to produce and overall report for all facilities. To address this issue the CUPA is working with CalEPA on a redesigned CUPA data management system to provide a more comprehensive reporting system to replace the CUPADMS reporting system. To correct this deficiency staff is conducting a manual audit of program files.

Cal/EPA's 3rd Response: Can the CUPA disseminate the facilities that have not submitted current business plan 3-year certifications and/or updates? If so, please submit that information along with the next progress report. Along with the next progress report, please state when the CUPA's new data management system will be ready to query business plan data (specifically business plan receipt date, past due facilities, pending review, etc.)?

CUPA's 4th Update: Enter Update Here

7. **Deficiency:** The CUPA has not performed an annual CalARP performance audit.

Preliminary Corrective Actions: By March 10, 2009, the CUPA will perform an annual CalARP performance audit. At the CUPA's option, this information may subsequently be included with the annual Title 27 self audit.

CUPA's 1st Update (4-13-09): The CUPA completed the CalARP annual performance audit has included it as part of the 2007-2008 CUPA Program Self Audit. A copy will be sent for review by OEMA. (Progress-Completed)

Cal/EPA's 1st Response: Please refer to CalEMA's response.

- **CalEMA's Response:** CalEMA has not received a copy of the 2007-2008 audits with the Title 19 elements. The 2008-2009 audits are due in September.

CUPA's 2nd Update (11-9-09): Attached is the updated 2007 – 2008 CUPA Self Audit that contains CUPA Program CalARP program audit.

Cal/EPA's 2nd Response: Cal/EPA and CalEMA consider this deficiency corrected.

8. **Deficiency:** The CUPA has not established a dispute resolution procedure for CalARP.

Preliminary Corrective Actions: By March 10, 2009, the CUPA will establish a dispute resolution procedure for CalARP that satisfies all elements of 19CCR 2780.1.

CUPA's 1st Update (4-13-09): The Oakland CUPA has revised the Administrative Enforcement Order and Inspection Plans to include a dispute resolution policy to address all program elements. The CUPA has provided a copy for review by CalEPA staff. (Progress – awaiting comment on D/R policy-On-going)

Cal/EPA's 1st Response: Please refer to CalEMA's response.

- **CalEMA's Response:** CalEMA has not received a copy of this document.

CUPA's 2nd Update (11-9-09): Updated Administrative Enforcement document has been attached. The dispute resolution procedures are located in Section V Administrative Settlement process.

Cal/EPA's 2nd Response: Along with the next progress report, please add the information described by CalEMA below.

- **CalEMA's Response:** The CUPA's dispute resolution procedure, as included in the Administrative Enforcement document, was fine, as far as it went. The procedure complied with all of the elements of 19 CCR 2780.1(a), and thus, would suffice as a generic dispute resolution procedure, for the most part. However, the CalARP regulations require that the dispute resolution procedure include an appeal to the Director of OES (now Secretary of Emergency Management) that does not apply to the other Unified Program elements. The Oakland CUPA's procedure could be amended by adding a short paragraph, to the effect that, in the case that the dispute is under the CalARP program, then the stationary source has the option of appealing the CUPA's decision to the Secretary of Emergency Management, pursuant to 19 CCR 2780.1(b). Using this citation, no further elaboration should be necessary.

CUPA's 3rd Update (8-2-10): The CUPA dispute resolution policy and procedure has been changed to address the requirement as outlined. A copy is available for review by CalEPA or CalEMA staff.

Cal/EPA's 3rd Response: Along with the next progress report, please submit the CUPA's updated CalARP dispute resolution procedure.

CUPA's 4th Update: Enter Update Here

9. **Deficiency:** The CUPA is not ensuring that the owners/operators of stationary sources are revising and updating their risk management plans (RMPs) once every five years. Out of the 3 RMPs reviewed only 1 was current. The others were dated May 2001 and April 2003.

Preliminary Corrective Actions: The CUPA will immediately request updated RMPs from the owners/operators of stationary sources that have not filed a five year update of their RMPs.

CUPA's 1st Update (4-13-09): All Oakland Cal-ARP facilities have been requested to submit new Cal-ARP documents. Staff has completed Cal-ARP and RMP refresher training (March 2009). Cal-ARP facilities will be inspected upon submittal of program documents. (Status – On-going)

Cal/EPA's 1st Response: Please refer to CalEMA's response.

- **CalEMA's Response:** Please report progress on how many revised RMPs you have received with the next quarterly report.

CUPA's 2nd Update (11-9-09): The CUPA has received and updated RMP/CalARP from Alameda Chemical and Scientific the document is currently under review by staff. The remaining facilities have received request for submittals.

Cal/EPA's 2nd Response: On the next progress report, please report the total number of current RMPs received by the CUPA. Also, report the number of RMPs that need to be submitted.

CUPA's 3rd Update (8-2-10): The CUPA has received one RMP for this reporting cycle. The facility Diesbach has been inspected by both EPA and city staff for compliance. Previously identified facilities has changed processes or reduce inventories below CalARP requirements. There are two identified facilities that meet the RMP/CalARP requirements for the City of Oakland.

Cal/EPA's 3rd Response: Please refer to CalEMA's response.

- **Cal EMA's Response:** With the next quarterly report, please clarify how many stationary sources are still in the CalARP program, and how many revised RMPs have been received. The CUPA has named two stationary sources, Alameda Chemical and Scientific, and Diesbach. Are these the only two CalARP facilities in the City of Oakland? Does the CUPA have current RMPs from both of them? Has the CUPA received deregistration documents from the other facilities, per 19CCR 2745.10(c) or (d) (whichever applies)?

CUPA's 4th Update: Enter Update Here

10. Deficiency: A file review by the SWRCB indicates that some UST facilities have not been inspected annually. A few examples are:

Olympian Oil CO, 8515 San Leandro BLVD- latest inspection report found in the file was dated 2005.

- Chevron, 2142 E. 12th Street- latest inspection report found in the file was dated 2003.
- Gordon Gas, 6600 Foothill BLVD- last inspection report found in file was dated 2006.
- M&S Shell, 9750 Golflinks Rd- latest inspection report found in the file was dated January 2007.

Preliminary Corrective Actions: By June 10, 2009, the CUPA will identify and inspect all UST facilities that have not been inspected annually. Inspection priority will be given to those facilities that have not been inspected for the longest period of time.

On the 1st progress report, the CUPA will report the total number of UST facilities that have not been inspected annually.

CUPA's 1st Update (4-13-09): The Oakland CUPA program files are located in two distinct buildings. Active information is sent to the program offices to be entered into the CUPA DMS system prior to being sent to the main data file room. At the time of the audit the Oakland CUPA was without a FTE to conduct data management activities for approximately 9 months. This position has been filled and staff is updating the main file area. Staff has reviewed the files for all UST located in Oakland, only 7 had not been inspected in 2008. These sites are emergency generator sites. It should be noted that one site (Chevron, 2142 E. 12th Street) was closed/inactive at the time of the audit.

Cal/EPA's 1st Response: Please refer to SWRCB's response.

- **SWRCB's Response:** Information submitted by the CUPA is not very clear. An inspection form was submitted showing that an inspection for 8515 San Leandro Blvd was done 4-17-08. This clears the inspection for this particular facility. For the facility located at 2142 E. 12th St, an expired DO form was submitted along with a letter from the owner stating that the business was sold and to cancel the current permit to operate. The facility located at 6600 Foothill Blvd is a concern because on the submitted inspection form, there are two different dates indicating an inspection was done. The first date shows that the inspection was started 1-11-07 and the signature date was 9-11-07. You also submitted a test form from Afforda-Test showing that the LLD's were tested 12-9-08. This same form shows that the CUPA inspector was not present during the testing (check box of form filled out by testing company). No documents were submitted for the facility located at 9750 Golflinks Rd. In your above statement, you stated that seven facilities for 2008 had not been inspected. On the next progress report, please clarify your submittals and update the SWRCB on the inspection status of the seven facilities that have not been inspected since 2008.

CUPA's 2nd Update (11-9-09): 9750 Golflinks Road was inspected, inspection report included in this report. Attached is the UST sites, staff has been instructed to inspect all active by 12/15/09. Will provide an update on the next report.

Cal/EPA's 2nd Response: Please refer to SWRCB's response.

- **SWRCB's Response:** The SWRCB has not received information to consider this deficiency corrected. On the next progress report, please submit information showing that the following facility has been inspected:
 - Gordon Gas, 6600 Foothill BLVD- The attached spreadsheet that was provided did not list this facility address.

Please provide the SWRCB an updated UST sites spreadsheet documenting the inspections conducted in 2009 per CUPA's 2nd progress report update.

CUPA's 3rd Update (8-2-10): Inspection tracking for UST inspection has improved. Data is being captured by the CUPA database management system, which will provide for enhanced data reporting. Attached is a spreadsheet showing facilities inspected by the Oakland CUPA.

Cal/EPA's 3rd Response: Please refer to SWRCB's response.

- **SWRCB's Response:** SWRCB has not received information to consider this deficiency corrected. On the next progress report, please provide Cal/EPA and SWRCB an updated UST sites spreadsheet documenting the inspections conducted in 2009 and 2010 per the CUPA's 3rd progress report update.

CUPA's 4th Update: Enter Update Here

11. Deficiency: UST facility files reviewed either lacked plot plans, or the plot plans did not contain all the required elements. The plot plans were missing the location of ATG, sump, UDC, monitoring panel, sensor(s), etc.

Preliminary Corrective Actions: By December 1, 2009, the CUPA will ensure that all facilities have complete and accurate plot plans. As inspections come up, check for file completeness and update as necessary.

CUPA's 1st Update (4-13-09): The Oakland CUPA program files are located in two distinct buildings. Active information is sent to the program offices to be entered into the CUPA DMS system prior to being sent to the main data file room. At the time of the audit the Oakland CUPA was without a FTE to conduct data management activities for approximately 9 months. This position has been filled and staff is updating the main file area. Staff has reviewed the files for all UST located in Oakland and will request update plot plans as needed. Current information is being placed in the central files. (Progress On-going Completion 09/01/09)

Cal/EPA's 1st Response: Please refer to SWRCB's response.

- **SWRCB's Response:** The CUPA is making progress towards correcting this deficiency. On the next progress report, report the number of facilities that have complete plot plans.

CUPA's 2nd Update (11-9-09): none

Cal/EPA's 2nd Response: Please refer to SWRCB's response.

- **SWRCB's Response:** The SWRCB has not received information to consider this deficiency corrected. On the next progress report, report the number of facilities that have complete plot plans.

CUPA's 3rd Update (8-2-10): Information requested by the SWRCB has been submitted with this report, the CUPA requires that all UST facilities submit a plot plan as required. The plot plan is review and verified as part of the monitoring certification inspection.

Cal/EPA's 3rd Response: Please refer to SWRCB's response.

- **SWRCB's Response:** Cal/EPA and SWRCB have not received information to consider this deficiency corrected. On the next progress report, report the number of facilities that have complete plot plans.

CUPA's 4th Update: Enter Update Here

12. Deficiency: The CUPA is allowing UST facilities to operate with expired operating permits. The SWRCB found two facilities with expired operating permits.

- Quik Stop- permit expired October 2008 and
- Gordon Gas- permit expired April 2004.

Preliminary Corrective Actions: By March 10, 2009, the CUPA will identify UST facilities that have expired permits and bring them into compliance.

CUPA's 1st Update (4-13-09): UST permits are issued annually (see attached) office copies are maintained electronically. To correct this deficiency staff shall place a copy of the permit in each facility folder. (On-going completion 5/30/09)

Cal/EPA's 1st Response: Cal/EPA and the SWRCB consider this deficiency corrected.

13. Deficiency: The CUPA did not provide health and safety training and initial hazardous waste training to the staff conducting hazardous waste inspections in accordance with their I and E Plan.

The CUPA staff is scheduled to take the 40 hour HAZWOPER training in January 2009.

Preliminary Corrective Actions: The CUPA will ensure that staff does not conduct hazardous waste inspections until they have received 40 hour HAZWOPER and on the job training the field.

By March 10, 2009, the CUPA will submit to Cal/EPA a copy of the HAZWOPER certificate(s) and a list of other trainings received.

CUPA's 1st Update (4-13-09): All staff has completed hazwoper training (See Attached)

Cal/EPA's 1st Response: Please refer to DTSC's comments.

- **DTSC's Response:** The CUPA included the following two training certificates: Mr. LeRoy Griffith's Hazwoper refresher dated February 6, 2008, which is expired; and Mr. Keith Matthews's Permit by Rule for Treatment of Aqueous Waste Containing Cyanides training dated September 11, 2008. The CUPA did not include Sheryl Skillern's certificate for the 40-hour Hazwoper taken. By the next progress report, the CUPA will submit to Cal/EPA copies of the Hazwoper and Hazwoper refresher certificate(s) Sheryl Skillern, LeRoy Griffith, and Keith Matthews and a list of other hazardous waste related trainings received by CUPA staff during FY 08/09.

CUPA's 2nd Update (11-9-09): Attached are the HAZWOPER certificates for all CUPA Program staff. Additional training received by staff:

- Annual California Unified Program Annual Training Conference – Inspector Skillern 1/26-29, 2009
- California UST Inspector Certification 4/18/2009 Inspector Skillern California UST Inspector Certification 12/2008 Inspector Kupers, refresher schedule for Dec 2009
- Used Oil Training 6/17/2009 Inspector Matthews, Skillern
- Permit –by Rule Treatment of Aqueous Waste containing Cyanides – 9/11/2008 inspector Keith Matthews
- Introduction to Environmental Enforcement – 3/23/2009 Inspector Skillern
- Aboveground Storage Tank Act program Training – 6/8/2009 Inspectors Matthews, Skillern, Griffin. Inspector Kupers schedule for September 2009.
- Large Quantity Generator Hazardous Waste Training – 5/13/2009- Inspectors Matthews, Skillern, Griffin (course description attached).

Cal/EPA's 2nd Response: Based on the reviewed HAZWOPER certificates for all staff, Cal/EPA and DTSC consider this deficiency corrected. It appears that because of the size and number of attachments sent with the 2nd progress report, the original submission was not received by Cal/EPA on the specified due date.

14. Deficiency: The CUPA did not conduct a complete oversight inspection on 12/3/08. During the oversight inspection of Gold Seal Plating, 3125 E. 7th Street, the CUPA inspector missed many components of the hazardous waste generator and tiered permitting (TP) regulations, including the following violations observed:

- Failure to have a daily inspection schedule for tanks and for the emergency equipment, as well as, a log of those inspections,
- Failure to have a written waste analysis plan and records,
- Failure to have tank reassessment (1 page tank assessment from 1995 was in the CUPA's file),
- Failure to submit excluded recyclable materials report, and
- Failure to conduct a TP inspection for PBR units, including cyanide treatment.

Preliminary Corrective Actions: By March 10, 2009, the CUPA will provide hazardous waste/TP training to staff regarding the identification and citation of hazardous waste violations.

Immediately, the CUPA will ensure that inspections are conducted in a manner consistent with state statute or regulation for businesses subject to the TP program.

CUPA's 1st Update (4-13-09): Training completed January 2009, conducted by DTSC

Cal/EPA's 1st Response: Please refer to DTSC's comments.

- **DTSC's Response:** Cal/EPA and DTSC appreciate the CUPA's efforts in trying to correct this deficiency. DTSC provided Basic Hazardous Waste Generator, Intermediate Tiered Permitting, and in the field trainings on February 10-11, 2009. DTSC did not provide training for hazardous waste identification or classifying violations. By the next progress report, the CUPA shall provide refresher hazardous waste identification and citation of hazardous waste violations trainings as was identified in the original corrective action.

CUPA's 2nd Update (11-9-09): Large Quantity Generator Hazardous Waste Training – 5/13/2009-Inspectors Matthews, Skillen, Griifin (course description attached).

Cal/EPA's 2nd Response: CUPA staff participated in hazardous waste training courses hosted by DTSC. These training courses, while important for program implementation, did not address the corrective action or DTSC's 1st progress report response. On the next progress report, please report when hazardous waste/TP training regarding the identification and citation of hazardous waste violations will be provided to the staff. ***This course is offered at the 2010 CUPA Conference Wednesday, February 3 from 1-5pm.***

CUPA's 3rd Update (8-2-10): Oakland CUPA has completed the hazardous waste/TP training. This training was conducted during the CUPA conference. Copies of the certificate of training have been obtained and are available if requested.

Cal/EPA's 3rd Response: Please refer to DTSC's response.

- **DTSC's 3rd Response:** DTSC appreciates the CUPA's efforts in trying to correct this deficiency. On the next progress report, please submit copies of the certificate of training that shows that the staff attended hazardous waste/TP training for the identification and citation of hazardous waste violations.

CUPA's 4th Update: Enter Update Here

15. Deficiency: The CUPA has not fully developed and implemented the hazardous waste TP program. The CUPA manager believed that TP was the responsibility of DTSC and not the CUPA. The following are instances observed by DTSC where the TP program was not implemented:

- The consolidated permit application lists “Do you have a Tiered Permit from DTSC?”
- For the emergency response/contingency plan – page 12, section VII, d. “Notify the Cal/EPA’s Department of Toxic Substances Control and the Livermore-Pleasanton Fire Department that the facility is in compliance with requirements ...”
- The CUPA does not have a written acknowledgment of TP notification and a method to handle incomplete forms.
- The CUPA does not have a procedure for the receipt of contingency plan activation reports.
- The CUPA does not have a procedure for the receipt of reports documenting releases of reportable quantities from tank systems or secondary containment
- The CUPA does not request that facilities submit a PBR notification for cyanide treatment after being notified by DTSC to do so in August 2008.
- The CUPA has not inspected its TP facilities at least once every three years. The file review showed that the Alameda County Household Hazardous Waste (HHW) Collection Facility was last inspected on 8/5/03.

The FY 2006/2007 self audit states that procedures are in place to implement the TP program; however, during this CUPA evaluation, CUPA staff stated that TP procedures were not in place.

Preliminary Corrective Actions: By March 10, 2009, the CUPA will develop and implement procedures for the hazardous waste TP program. Also, the CUPA will revise its consolidated permit application and TP forms to reflect the CUPA’s new TP procedures.

By March 10, 2009, the CUPA will inspect one HHW facility and submit the inspection report to Cal/EPA.

Along with the 1st progress report, the CUPA will submit to Cal/EPA a copy of the new TP procedures, the HHW inspection report, the revised permit application and TP forms.

CUPA’s 1st Update (4-13-09): Inspection completed, new inspection form attached.

Cal/EPA’s 1st Response: Please refer to DTSC’s comments.

- **DTSC’s Response:** The CUPA has conducted one HHW facility inspection, but did not include a copy of the inspection report as requested. The CUPA also did not submit copies of the new hazardous waste TP procedures, the revised permit application, and TP forms. The new inspection form was not included with the 1st update. This deficiency remains outstanding.

CUPA’s 2nd Update (11-9-09): Copy of the inspection form for inspection conducted at the HHW facility is attached. Included are the updated hazardous waste generator forms.

Cal/EPA’s 2nd Response: Please review DTSC’s comments and make the necessary corrections to the TP forms. Include the revised forms along with the next progress report.

- **DTSC's 2nd Response:** A copy of the inspection form used for the HHW collection facility (HHWCF) inspection shows that the CUPA used a LQG checklist when a checklist denoting the requirements of a HHWCF was needed. Please note that a HHWCF is not considered a LQG facility and is subject to additional requirements mandated by H&SC, section 25218-25218.8, and the California Code of Regulations, Title 22, section 66470.25.

The CUPA included a copy of the LQG inspection form that DTSC provided to the CUPA with letterhead updated as track changes. The CUPA still needs to update their website address on the header. The CUPA also needs to update their SQG checklist for the manifest copy since the law changed in September 2006 and there was no "blue" copy of the manifest in the earlier version.

The CUPA submitted a list of LQG/TP facilities inspections conducted (audit report); which incorrectly lists facilities as TP or LQGs. Please note that the silver-only facilities are not subject to the tiered permitting program since January 1, 1999. It is unclear to DTSC what the CUPA wanted to show from this list.

A copy of the new TP procedures and a copy of the revised permit application were included with this response.

CUPA's 3rd Update (8-2-10): The CUPA has updated its inspection form for HHHWF facilities. The only facility in Oakland is under the jurisdiction of the Alameda County CUPA so the inspection conducted by the Oakland CUPA was initially conducted under the requirements of a HHW PBR facility. Inspection processes has been changed to include the inspection requirement as outlined by CalEPA.

Cal/EPA's 3rd Response: Please refer to DTSC's response.

- **DTSC's 3rd Response:** DTSC appreciates the CUPA's efforts in trying to correct this deficiency. A copy of the new TP procedures and a copy of the revised permit application were not included with this response. On the next progress report, please submit a copy of the new TP procedures and a copy of the revised permit application.

CUPA's 4th Update: Enter Update Here

16. Deficiency: The CUPA has not submitted quarterly inspection or enforcement reports for RCRA LQGs since January 2005.

Reports must be submitted to DTSC on a quarterly basis (February 1, May 1, August 1, and October 15).

Preliminary Corrective Actions: The CUPA will submit RCRA LQGs quarterly reports to DTSC by February 1, 2009. If the CUPA did not perform any inspections or take any enforcement actions at a RCRA LQG facility, it should submit a notice to DTSC stating that the CUPA did not perform any activities at RCRA LQG facilities. The CUPA may send this notice or the quarterly RCRA LQG report to Asha Arora at aarora@dtsc.ca.gov.

The CUPA may choose to submit the RCRA LQG information online using Cal/EPA's Unified Program Data System (UPDS). Here is the website link for UPDS:

<https://securecupa.calepa.ca.gov /UPDS/Web/Forms/Public/Login.aspx>

CUPA's 1st Update (4-13-09): The CUPA has identified the LQG sites that have been inspected during the time period identified during the program audit. No violations were observed by staff, report to be submitted to DTSC 5/10/09.

Cal/EPA's 1st Response: Please refer to DTSC's comments.

- **DTSC's Response:** DTSC expects to receive the RCRA LQG inspection and enforcement data by 5/10/09.

CUPA's 2nd Update (11-9-09): Attached is the list of LQG facilities that have been inspected in the last three years. Staff has requested access to the CalEPA Unified Program Data System, upon receipt the inspection information will be entered by staff. Completion 9/30/09.

Cal/EPA's 2nd Response: The CUPA's list of RCRA LQGs was not sent with the 2nd progress report. Has the CUPA gained access to and submitted RCRA LQG inspection and enforcement data online? Please respond in the next progress report. Please refer to DTSC's comments.

- **DTSC's Response:** As of this date, DTSC has not received any quarterly inspection or enforcement reports for RCRA LQGs from the CUPA since 2005. The CUPA will submit RCRA LQGs quarterly reports to DTSC by March 22, 2010. If the CUPA did not perform any inspections or take any enforcement actions at a RCRA LQG facility, it should submit a notice to DTSC stating that the CUPA did not perform any activities at RCRA LQG facilities. The CUPA may send this notice or the quarterly RCRA LQG report to Asha Arora at aarora@dtsc.ca.gov. It is unclear if the CUPA obtained access to the Cal/EPA UPDS and submitted RCRA LQG inspection and enforcement data online.

CUPA's 3rd Update: Staff has obtained access to Cal/EPA UPDS and is in the process of training new staff in the uploading of current and historical inspection data to the site. This deficiency will be completed upon the implementation of the updated CUPA database implementation project.

Cal/EPA's 3rd Response: Please refer to DTSC's comments.

- **DTSC's 3rd Response:** DTSC appreciates the CUPA's efforts in trying to correct this deficiency. This deficiency remains outstanding. On the next progress report, please confirm if your staff have entered RCRA LQG inspection and enforcement data online.

CUPA's 4th Update: Enter Update Here

17. Deficiency: Inspection reports issued by the CUPA do not include observations or other information in enough detail to determine if those items are violations, observations, or suggestions. During the file review the following files were noted as having violations which were not adequately or properly documented:

- The 10-31-08 inspection report for ED-Coat, 714 4th Street, stated "Needs improvement." It was unclear what needed improvement. The inspection report dated 8-16-06 stated that the business was exempt from the TP program; however, the inspection report dated 5-10-01 listed "no violations" and stated that the business should potentially be in the PBR unit because metals are removed from rinse waters by pH adjustment using NaOH.
- The 8-8-08 inspection report for Scientific Platers of No Cal, 9809 Kitty Lane, listed "tank inspection, SB14, incompatibles, used oil filters N/A." The observations are unclear since "No violations" was written on the inspection report. The inspection reports dated 5-31-07, 8-16-06, 7-6-06, and 10-7-03 listed "No violations" and reported the business exempt from the TP program as per the consultant, but did not include information to support an exemption.
- The 7-16-06 inspection report for Pacific Galvanizing, 715 46th Avenue listed sulfuric acid to storm drain and inadequate secondary containment but did not include other details to support a violation.
- The 6-29-06 inspection report for Johnson Plating Works, 2526 Telegraph Avenue, listed "Evaporate concentrate, employees not trained within 6 months" without any details to classify the minor violations. A reinspection dated 8-29-06 indicated that violations were corrected; however, both the inspection and reinspection reports did not include a violation for treatment without authorization.
- The 1-9-06 inspection report for Hazel Auto, 456 23rd Street, listed "Antifreeze needs sec containment and HW labels" without enough details to classify the violations as minor. These violations were noted as corrected on a reinspection dated 2-14-06.

Preliminary Corrective Actions: Effective immediately, the CUPA will ensure that inspections are conducted in a manner consistent with state statute or regulation.

By March 10, 2009, the CUPA will ensure that all violations cited in inspection reports are clearly documented as violations and include the factual basis for violations, as well as, the corrective actions to be taken.

By March 10, 2009, the CUPA will provide refresher hazardous waste/tiered permitting training to staff regarding the identification and citation of hazardous waste violations.

CUPA's 1st Update (4-13-09): Training completed January 2009, conducted by DTSC.

Cal/EPA's 1st Response: Please refer to DTSC's comments.

- **DTSC's Response:** Cal/EPA and DTSC appreciate the CUPA's efforts in trying to correct this deficiency. DTSC provided Basic Hazardous Waste Generator, Intermediate Tiered Permitting, and in the field trainings on February 10-11, 2009. By the next progress report, the CUPA will provide refresher hazardous waste identification and citation of hazardous waste violations trainings as identified in the original corrective action.

CUPA's 2nd Update (11-9-09): Large Quantity Generator Hazardous Waste Training – 5/13/2009- Inspectors Matthews, Skillern, Griffin (course description attached).

Cal/EPA's 2nd Response: CUPA staff participated in hazardous waste training courses hosted by DTSC. These training courses, while important for program implementation, did not address the corrective action or DTSC's 1st progress report response. On the next progress report, please report when hazardous waste/TP training regarding the identification and citation of hazardous waste violations will be provided to the staff. ***This course is offered at the 2010 CUPA Conference Wednesday, February 3 from 1-5pm.***

CUPA's 3rd Update (8-2-10): Staff has completed the mandated training.

Cal/EPA's 3rd Response: Please refer to DTSC's comments.

- **DTSC's Response:** DTSC appreciates the CUPA's efforts in trying to correct this deficiency. As stated in earlier responses, the LQG training did not address the corrective action or DTSC's 1st progress report response. By the next progress report, the CUPA will provide refresher hazardous waste identification and citation of hazardous waste violations trainings as identified in the original corrective action. On the next progress report, please provide documentation for the trainings that were provided to the staff.

CUPA's 4th Update: Enter Update Here

18. Deficiency: The CUPA is not allocating five percent of its hazardous waste-related resources to the oversight of universal waste handlers and silver-only generators.

Preliminary Corrective Actions: By March 10, 2009, the CUPA will amend their I and E plan to include a discussion of how the CUPA will expend five percent of its hazardous waste related resources to the oversight of universal waste handlers and silver-only generators.

CUPA's 1st Update (4-13-09): I and E have been amended. Completed.

Cal/EPA's 1st Response: Please refer to DTSC's comments.

- **DTSC's Response:** Cal/EPA and DTSC appreciate the CUPA's efforts in trying to correct this deficiency. The CUPA will submit an amended I and E along with the next progress report.

CUPA's 2nd Update (11-9-09): Amended I & E have been included in this report.

Cal/EPA's 2nd Response: Cal/EPA and DTSC consider this deficiency corrected. Please refer to DTSC's comments.

- **DTSC's Response:** The CUPA's revised I & E Plan documents that the CUPA will inspect all silver-only facilities once every three years. The CUPA included discussion of how it will expend 5 percent of its hazardous waste related resources to the oversight of universal waste handlers. This deficiency has been corrected based on the information provided.